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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,698	10/29/2003	Christopher Wallace Willoughby	7261.3002.002	5274

7590 12/29/2005

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EXAMINER	
MORRISON, THOMAS A	

ART UNIT	PAPER NUMBER
3653	

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/696,698	WILLOUGHBY ET AL.	
	Examiner	Art Unit	
	Thomas A. Morrison	3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 September 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-8 and 10-55* is/are pending in the application.

4a) Of the above claim(s) *22-55* is/are withdrawn from consideration.

5)☒ Claim(s) *1-2, 5-6, 10-18 and 20-21* is/are allowed.

6)☒ Claim(s) *3,4,7,8 and 19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. The indicated allowability of claims 3-4 and 19 is withdrawn. The examiner failed to appreciate the disclosure of U.S. Patent No. 3,985,264 (Shaw et al.) in light of the current scope of claims 3-4 and 19. Rejections based on this reference follow.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 3-4, 7-8 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,985,264 (Shaw et al.).

Regarding claim 3, Figs. 1-12 show an apparatus for dispensing packages of medication (14) having dispensatory instructions thereon (see, e.g., column 3, lines 38-45), including

a body (19) having an internal cavity and an outlet (22);

an actuator (including 65) received in the cavity;

a feed mechanism (including 36, 60 and 62) received in the cavity and in operable communication with the actuator (including 65) for feeding and dispensing the packages of medication toward the outlet (22);

a processing unit (Fig. 12) in operable communication with the actuator (including 65); and

a reading device (38) received in the cavity and in communication with the processing unit (Fig. 12), the reading device (38) relaying the dispensatory instructions on the packages to the processing unit (Fig. 12), the processing unit (Fig. 12) communicating with the actuator (including 65) and causing the feed mechanism (including 36, 60 and 62) to dispense each of the packages toward the outlet (22) at a specified time,

the feed mechanism (including 36, 60 and 62) has a pair of feed rollers (including two driven members 60 and two unnumbered shafts) arranged to engage the packages as the packages pass between the feed rollers (including two driven members 60 and two shafts) and a pair of dispensing rollers (including two driven members 62 and two shafts) arranged to engage the packages as the packages pass between the dispensing rollers (including two driven members 62 and two shafts),

wherein one of the feed rollers has a driven member (60) and the actuator (including 65) has a drive member (i.e., unnumbered shaft on 65), the driven member (60) being arranged in operable communication with the drive member (i.e., the unnumbered shaft) causing the one feed roller (60) to rotate in response to rotational movement of the drive member (i.e., the unnumbered shaft). More specifically, the Shaw et al. apparatus is arranged such that movement of the shaft of the actuator (including 65) causes movement of feed wheel 36, which in turn causes movement of

the strip. The strip includes element 59. See, e.g., Figs. 8 and 9. As such, element 59 moves when the shaft of the actuator (including 65) rotates. Lastly, the one feed roller 60 rotates as a result of movement of element 59. Accordingly, rotation of the shaft of the actuator (i.e., the drive member) results in rotation of the one feed roller (60), as claimed.

Regarding claim 4, Figs. 1-12 show an apparatus for dispensing packages of medication (14) having dispensatory instructions thereon (see, e.g., column 3, lines 38-45), including

a body (19) having an internal cavity and an outlet (22);

an actuator (including 65) received in the cavity;

a feed mechanism (including 36, 60 and 62) received in the cavity and in operable communication with the actuator (including 65) for feeding and dispensing the packages of medication toward the outlet (22);

a processing unit (Fig. 12) in operable communication with the actuator (including 65); and

a reading device (38) received in the cavity and in communication with the processing unit (Fig. 12), the reading device (38) relaying the dispensatory instructions on the packages to the processing unit (Fig. 12), the processing unit (Fig. 12) communicating with the actuator (including 65) and causing the feed mechanism

(including 36, 60 and 62) to dispense each of the packages toward the outlet (22) at a specified time,

the feed mechanism (including 36, 60 and 62) has a pair of feed rollers (including two driven members 60 and two unnumbered shafts) arranged to engage the packages as the packages pass between the feed rollers (including two driven members 60 and two shafts) and a pair of dispensing rollers (including two driven members 62 and two shafts) arranged to engage the packages as the packages pass between the dispensing rollers (including two driven members 62 and two shafts),

wherein one of the dispensing rollers has a driven member (62) and the actuator (including 65) has a drive member (i.e., unnumbered shaft on 65), the driven member (62) being arranged in operable communication with the drive member (i.e., the unnumbered shaft) causing the one dispensing roller (62) to rotate in response to rotational movement of the drive member (i.e., the unnumbered shaft). Again, the Shaw et al. apparatus is arranged such that movement of the shaft of the actuator (including 65) causes movement of feed wheel 36, which in turn causes movement of the strip. The strip includes element 59. See, e.g., Figs. 8 and 9. As such, element 59 moves when the shaft of the actuator (including 65) rotates. Lastly, the one dispensing roller 62 rotates as a result of movement of element 59. Accordingly, rotation of the shaft of the actuator (i.e., the drive member) results in rotation of the one dispensing roller (62), as claimed.

Regarding claim 7, element 59 acts as an idler member indirectly communicating with the driven member (60) and the drive member (i.e., the unnumbered shaft on 65) causing the one feed roller (60) to rotate in response to rotation of the actuator (including 65).

Regarding claim 8, element 59 acts as an idler member indirectly communicating with the driven member (62) and the drive member (i.e., the unnumbered shaft on 65) causing the one dispensing roller (62) to rotate in response to rotation of the actuator (including 65).

Regarding claim 19, Figs. 1-12 show an apparatus for dispensing packages of medication (14) having dispensatory instructions thereon (see, e.g., column 3, lines 38-45), including

a body (19) having an internal cavity and an outlet (22);

an actuator (including 65) received in the cavity;

a feed mechanism (including 36, 60 and 62) received in the cavity and in operable communication with the actuator (including 65) for feeding and dispensing the packages of medication toward the outlet (22);

a processing unit (Fig. 12) in operable communication with the actuator (including 65); and

a reading device (38) received in the cavity and in communication with the processing unit (Fig. 12), the reading device (38) relaying the dispensatory instructions

on the packages to the processing unit (Fig. 12), the processing unit (Fig. 12) communicating with the actuator (including 65) and causing the feed mechanism (including 36, 60 and 62) to dispense each of the packages toward the outlet (22) at a specified time,

further comprising a power module (i.e., wires connected to element 65 in Fig. 12) operably connected to the actuator (including 65) and the processing unit (Fig. 12), the power module having at least one of a direct current power source and an alternating power source. It is the examiner's position that element 65 inherently operates based on some type of DC or AC power source, as claimed.

Allowable Subject Matter

3. Claim 1-2, 5-6, 10-18 and 20-21 are allowed.

Response to Amendment

4. Applicant's arguments filed 09/28/2005 have been fully considered but they are not persuasive. In particular, applicant makes one argument that is discussed below.

Specifically, on page 21 of applicants 9/28/05 amendment, applicant respectfully disagrees with the Examiner's contention that Shaw shows a pair of feed rollers 60 arranged to engage the packages as the packages pass between the feed rollers 60 and a pair of dispensing rollers 62 arranged to engage the packages as the packages pass between the dispensing rollers 62.

Applicant argues that in Shaw et al., the rollers 60 engage the flange 59 of the strip 16 to advance the strip 16 through the cabinet top 19, while the rollers 62 keep the

strip 16 in a vertical position (Co1. 4, lines 10-16). Neither of the pairs of rollers 60, 62 engage the drug container 18, let alone a package of any kind, nor is there any suggestion that it would be beneficial to do so.

In response, it is noted that claims 3 and 4 recite "said feed mechanism having a pair of feed rollers arranged to engage the packages as the packages pass between said feed rollers and a pair of dispensing rollers arranged to engage the packages as the packages pass between said dispensing rollers". It is the examiner's position that the entire strip including 16, 59 and 18 can be considered the packages. This whole strip passes through the feed rollers and the dispensing rollers of Shaw et al. As such, any portion of this strip that contacts the feed rollers and/or the dispensing rollers of Shaw satisfies the claimed limitations of claims 3 and 4. Alternatively, the strip can be made up of separate cards 17 that can each include element 59 and can each be considered separate packages. Thus, it is the examiner's position that the Shaw et al. patent still satisfies the roller limitations of claims 3 and 4.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Morrison whose telephone number is (571) 272-7221. The examiner can normally be reached on M-F, 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Walsh can be reached on (571) 272-6944. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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